

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re:

Henrietta Respler

Debtor.

**NOTICE OF MOTION FOR
TERMINATION OF AUTOMATIC STAY**

Case No.: 18-22956-rdd
(Chapter 7)

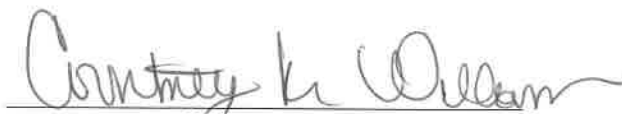
Assigned to:
Hon. Robert D. Drain
Bankruptcy Judge

Please take notice that Rushmore Loan Management Services, LLC as servicing agent for Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, a secured creditor of Debtor, by the undersigned attorneys, will move this Court on February 15, 2019 at 10:00am or as soon thereafter as counsel can be heard, at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, NY 10601 for an Order pursuant to 11 U.S.C. §362(d)(1) and 11 U.S.C. §362(d)(2) terminating the automatic stay as to movant's interest in real property commonly known as 4 Algonquin Circle, Airmont, NY 10952 and for such other relief as the Court may deem proper.

DATED: November 29, 2018
Williamsville, New York

Yours,

By:



Courtney R Williams, Esq.

GROSS POLOWY, LLC

Attorneys for Secured Creditor

Rushmore Loan Management Services, LLC as
servicing agent for Wilmington Savings Fund
Society, FSB, d/b/a Christiana Trust

1775 Wehrle Drive, Suite 100

Williamsville, NY 14221

Telephone (716)204-1700

TO:

Henrietta Respler
4 Algonquin Circle
Monsey, NY 10952

Pro Se Debtor

United States Trustee
Office of the United States Trustee
U.S. Federal Office Building
201 Varick Street, Room 1006
New York, NY 10014

U.S. Trustee

Yitzchok Y Shteierman
47 Parker Blvd
Monsey, NY 10952

Petitioning Creditor

Abraham Kaufman
4 Algonquin Circle
Monsey, NY 10952

Petitioning Creditor

Rachel Kaufman
4 Algonquin Circle
Monsey, NY 10952

Petitioning Creditor

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

AFFIRMATION

In Re:

Case No.: 18-22956-rdd
(Chapter 7)

Henrietta Respler

Debtor.

Assigned to:
Hon Robert D. Drain
Bankruptcy Judge

I, Courtney R Williams, Esq. am an attorney duly licensed to practice law in the Courts of this State and in the United States Bankruptcy Court for the Southern District of New York and hereby state as follows:

1. I submit the within Affirmation under penalty of perjury in support of the motion of Rushmore Loan Management Services, LLC as servicing agent for Wilmington Savings Fund Society, FSB, d/b/a Christiana Trust, not individually but as trustee for Carlsbad Funding Mortgage Trust ("Secured Creditor"), a Secured Creditor of the above-referenced Debtor, to terminate the automatic stay in this case with respect to the real property commonly known as 4 Algonquin Circle, Airmont, NY 10952.

2. Secured Creditor is the holder of a note executed by Claude B. Kaufman on or about the 22nd day of October, 2001 in the principal amount of \$222,000.00 and interest (the "Note"), secured by a mortgage bearing even date therewith, which is recorded in the Office of the Rockland County Clerk on the 6th day of December, 2001 in Instrument # 2001-00059750 (the "Mortgage") covering the premises commonly known as 4 Algonquin Circle, Airmont, NY 10952 (the "Mortgaged Premises"). A copy of the Note, Mortgage and Assignment, is annexed hereto as **Exhibit 'A'**.

3. On the 21st day of June, 2018 an involuntary petition was filed against Debtor Henrietta Respler under Chapter 7 of Title 11 U.S.C. §101 et seq with this Court, and an Order for relief was duly entered. Henrietta Respler is a record owner of the real property and the recorded deed is attached hereto as **'Exhibit B'**.

4. The Note and Mortgage provide that the loan will be in default if full monthly payments are not made on each due date. As of November 11, 2018, the Debtor is due for 72 payments in the amount of \$2,887.78 each for the months of March 1, 2010 to February 1, 2016, 17 payments in the amount of \$3,161.30 each for the months of March 1, 2016 to July 1, 2017, 1 payment in the amount of \$3,789.84 for the month of August 1, 2017, 5 payments in the amount of \$3,025.51 each for the months of September 1, 2017 to January 1, 2018, 1 payment in the amount of \$3,047.86 for the month of February 1, 2018 and 9 payments in the amount of \$3,026.38 each for the months of March 1, 2018 to November 1, 2018 and has not cured said default. Furthermore, 1 payment due on December 1, 2018 will be due at the date this motion is heard. A Motion for Relief from Stay Worksheet is attached hereto as **Exhibit 'C'**.

5. As of the 13th day of November, 2018 there is a total indebtedness on the Note and Mortgage in the sum of \$453,779.67. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make advances for property taxes, insurance and related matters.

6. Based on the BPO attached hereto as **Exhibit 'D'**, said real property is valued at \$595,000.00.

7. Section 362(d)(1) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from the stay imposed by Section 362(a) "for cause, including lack of adequate protection of an interest in property..." As set forth above, cause exists to vacate the automatic stay as the Secured Creditor has not received monthly mortgage payments.

8. A copy of a proposed Order granting the relief sought by Secured Creditor is annexed hereto as **Exhibit 'D'**.

9. In the event that this motion is scheduled to be heard beyond the time-period set forth in 11 U.S.C. Section 362(e) or is subsequently adjourned beyond said time period, Secured Creditor hereby waives its rights under 11 U.S.C. Section 362(e) and agrees to be bound by the Order of the Court on the instant Motion.

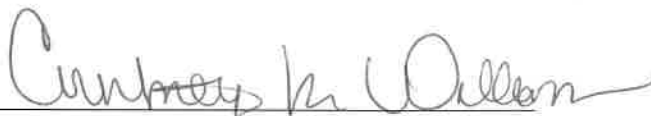
10. No prior application has been made for the relief requested herein.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises together with such other, further and different relief as the Court may deem just in this matter.

DATED: November 29, 2018
Williamsville, New York

Yours,

By:


Courtney R Williams, Esq.
GROSS POLOWY, LLC
Attorneys for Secured Creditor
Rushmore Loan Management Services, LLC as
servicing agent for Wilmington Savings Fund
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